

## REMARKS

The Applicants respectfully request entry of this Amendment for purposes of clarifying the scope of the invention. Namely, original claims 1-20 were directed to a telescoping roof rack assembly attached to a roof and a truck bed of a vehicle. By this Amendment, claims 1-8 and 10-21 are now directed to a vehicle having a roof, a truck bed, and a telescoping roof rack assembly attached to the roof and the truck bed. This clarification of the scope of the invention is consistent with all remarks entered by the Applicants heretofore. It is submitted that no new limitations have been added with this Amendment. Also, no additional search or further consideration is required as all cited references are directed to vehicles having rack assemblies.

New claim 21 recites the pair of second supports in the retracted position overlapping the first pair of supports and thus providing unobstructed use of said truck bed. Also, new claim 21 recites the second pair of supports in said extended position extending over the truck bed. It will be appreciated that this subject matter is not new as it was recited in original claim 18.

In the Action, claims 1-7, 9, and 18-20 were rejected under 35 U.S.C. § 102(b) as anticipated by the Boudah patent (U.S. No. 5,143,415). In addition, claims 1-7 and 9 were rejected under 35 U.S.C. § 103(a) as unpatentable over the Boudah patent in view of the Burns patent (U.S. No. 3,734,110). Claims 10-16 were rejected under 35 U.S.C. § 103(a) as unpatentable over the Boudah patent in view of the Ingram patent (U.S. No. 5,423,587). Moreover, claim 8 was rejected under 35 U.S.C. § 103(a) as unpatentable over the Boudah patent and the Burns patent and further in view of the Eck patent (U.S. No. 2,608,420) and the Aftanas patent (U.S. No. 6,056,176). Also, claim 17 was rejected under 35 U.S.C. § 103(a) as unpatentable over the Boudah patent and the Ingram patent and further in view of the Eck patent and the Aftanas patent. The Applicants respectfully submit that these rejections have been overcome with this Amendment in view of the reasons provided below.

### The § 102(b) Rejections:

The Boudah patent is directed to a rack attached only to the sidewalls of a truck bed and positioned only over the truck bed (best shown in Figure 1). As stated in the Action (p.3, ¶4), the Boudah patent does not disclose the claimed invention having a front pair of legs attached to the vehicle roof. However, the claimed invention includes a roof rack section of the rack assembly attached to the vehicle roof. For this reason alone, it is respectfully submitted that the claimed invention is novel and allowable.

Additionally, in the Boudah patent, it is understood that the rack therein extends across a substantial portion of the truck bed even when the rack is moved to its most retracted and compact configuration. Specifically, the tubes 17, 18 obstruct the truck bed even when the tubes 17, 18 are moved to substantially overlap each other. In this way, the rack obstructs use of the truck bed notwithstanding the capability of moving the rack as purported in the Action. Conversely, the claimed rack assembly has first and second telescoping supports which in the retracted position provide unobstructed use of the truck bed. For this additional reason, the claimed vehicle is allowable notwithstanding the Boudah patent.

**The § 103(a) Claim Rejections:**

*The Boudah Patent In View Of The Burns Patent:*

In the Burns patent, the rack therein has been relied upon for teaching the claimed invention having the roof rack section attached to the vehicle roof. However, as shown in Figure 1, the Burns patent discloses the rack utilized over only the truck bed rather than both the roof and the truck bed.

Specifically, in the Burns patent, the rack therein is comprised of tubular members 31, 32, 33, 48 that extend across the truck bed with a front end portion of the rack attached to the rear corners of the vehicle roof. In other words, one integral rack extends rearward from the roof and over the truck bed. It is therefore submitted that the Burns patent does not teach or suggest both the claimed roof rack section and the claimed truck bed section of the telescoping rack assembly. Furthermore, as detailed above, the Boudah patent discloses a rack that obstructs use of the truck bed even when the rack is moved to its most compact configuration. Thus, even if the proposed combination were made, this combination would still not teach the claimed invention.

*The Boudah Patent In View Of The Burns Patent In Further View of The Ingram Patent:*

In rejecting claims 10 through 16, the Ingram patent has been relied upon for teaching the claimed arched cover. However, for the reasons detailed above, even if the proposed piecemeal combination of the cited references were made, this combination would not teach or suggest both the claimed roof rack section and the claimed truck bed section of the telescoping rack assembly. Also, this combination would not teach or suggest the claimed rack assembly in a retracted position providing unobstructed use of the truck bed.

U.S.S.N.: 10/604,566

10

81044950/201-0905  
(FGT 1697 PA)

*The Boudah Patent And The Burns Patent In View Of The Eck Patent And The Aftanas Patent:*

In the Action, no sufficient motivation has been provided for making the proposed combination of the four cited references. Rather, only a mere description of the modification has been provided. Accordingly, it is submitted that *prima facie* obviousness has not been established.

Even if the piecemeal combination of the four cited references were made, it is respectively submitted that this combination would still not teach or suggest the claimed invention that is movable to a retracted position and provides unobstructed use of the truck bed. Furthermore, the proposed combination would not disclose both the roof rack section attached to the vehicle roof with the truck bed section telescopically coupled to the roof rack section. For at least these reasons, claim 8 is nonobvious and allowable.

*The Boudah Patent And The Ingram Patent In View Of The Eck Patent And The Aftanas Patent:*

The Applicants submit that claim 17 is nonobvious and allowable at least for the same reasons provided in support of claim 8.

**Conclusion:**

In view of the foregoing, it is submitted that all of the claims remaining in the case, namely claims 1-8 and 10-21, are in proper form and patentably distinguish from the prior art. Accordingly, allowance of the claims and passage of the application to issuance are respectfully solicited.

Respectfully submitted,

ARTZ & ARTZ, P.C.



Vincent C. Tlagan  
Reg. No. 53,053  
28333 Telegraph Road, Ste. 250  
Southfield, MI 48034  
Attorney for Applicants

Date: November 22, 2005